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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Item 11 (a) of the provisional agenda

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE
SUB-COMMISSION HAS BEEN OR MAY BE CONCERNED:

REVIEW OF DEVELOPMENTS RELATED TO RECOMMENDATIONS
MADE IN EARLIER STUDIES

Written statement submitted by the International Federation
of Human Rights Leagues, a non-governmental organization in
special consultative status

The Secretary-General has received the following written statement
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[5 August 1997]

1. The International Federation of Human Rights (FIDH) and the Vietnam Committee on Human Rights are deeply concerned by the serious obstacles in the implementation of the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief in many regions in the world. In this respect, the situation in the Socialist Republic of Viet Nam is of particular concern. Although the Government has recently adopted more subtle methods of suppressing religious activities, it continues to implement a systematic policy of repression against all religious communities (Buddhist, Roman Catholic, Cao Dai, Hoa Hao, Protestant, etc.). The main target of this policy is the independent Unified Buddhist Church of Vietnam (UBCV). This traditional Buddhist Church is adhered to by 80 per cent of the population, despite the fact that the State-sponsored body, the Vietnam Buddhist Church, is the only Buddhist organization recognized by the Government of Viet Nam today.

2. Because of their non-violent advocacy of religious freedom, UBCV clergy and followers are intimidated and harrassed, and today virtually the entire UBCV leadership is in prison or under house arrest, including:

(a) 79-year-old Thich Huyen Quang (secular name Le Dinh Nhan) who has been detained without trial for almost two decades because of his non-violent advocacy of religious freedom. Detained since 1982 at Hoi Phuoc pagoda in Quang Ngai province for protesting against the establishment of the State-sponsored Vietnam Buddhist Church, he was appointed to succeed Thich Don Hau as Patriarch of the UBCV in 1992. Despite his detention, he continues to make public appeals for religious freedom and human rights, notably a landmark "Declaration" (20 November 1993) calling for democratic reforms. On 29 December 1994, Thich Huyen Quang was accused of authorizing a UBCV relief mission to distribute aid to flood victims in the Mekong Delta and placed in custody in Nghia Hanh village, Quang Ngai. Thich Huyen Quang is still being detained without charge, forbidden to receive medical treatment, or visits from the ICRC. He is in extremely poor health;

(b) UBCV Secretary-General Thich Quang Do (Dang Phuc Tue), a well-known writer and scholar, who has spent more than 18 years in detention. Security police justified his arrest in 1982 and subsequent 10-year detention under house arrest by saying: "by carrying out religious activities, you are ipso facto being politically active". He escaped from house arrest in 1992 and returned home to the Thanh Minh pagoda in Ho Chi Minh City, where he continued his appeals for religious freedom and the right to existence of the UBCV. He was arrested again on 4 January 1995 and sentenced to five years' imprisonment and five years' deprivation of civil rights at a one-day closed trial on 15 August 1995 on charges of "taking advantage of democratic freedoms to violate the interests of the State". He was accused of supporting the UBCV relief mission, criticizing State religious policies, and sending faxes to Buddhists overseas. Thich Quang Do was sent from Ho Chi Minh City to Ba Sao Re-education Camp (Nam Ha province) in October 1995, then secretly transferred to the notorious B14 prison (also known as Thanh Liet, 10 km from Hanoi) in May 1996;

(c) Thich Tue Sy (Pham Van Thuong), writer and philosopher, and Thich Tri Sieu (Le Manh That), historian, both born in 1943, who were arrested in 1984 and detained without trial for four years before being sentenced to death by the Ho Chi Minh City People's Tribunal on 30 September 1988 for "anti-governmental activities". Their sentence was commuted to 20 years' hard labour following an international campaign launched by the Vietnam Committee on Human Rights. Thich Tue Sy was detained in A20 Re-education Camp in Phu Yen province until 1994, when he joined other political prisoners in a protest over the camp's ban on their meeting with the United Nations Working Group on Arbitrary Detention which visited the camp in October 1994. He suffers from bronchitis and malnutrition. Thich Tri Sieu (Le Manh That) is detained in Z30 A Re-education Camp, Dong Nai province. In November 1995, he was detained in a solitary confinement cell in a zone reserved for tuberculosis prisoners after he and other prisoners called for democracy during a political indoctrination session. He is extremely weak from ill-treatment and lack of medical care;

(d) Thich Tri Tuu (Le Quang Vinh), Superior Monk of Linh Mu pagoda in Hue, who was arrested on 5 June 1993 and sentenced on 15 November 1993 to four years in prison at an unfair trial in the People's Army Barracks on charges of "disturbing public order". Thich Tri Tuu had staged a hunger strike at the Hue People's Committee after security police tried to force him to sign false statements concerning a Buddhist (Nguyen Ngoc Dung) who immolated himself at Linh Mu pagoda. This triggered off a demonstration in which 40,000 Buddhists took to the streets on 24 May 1993. Thich Tri Tuu was accused of "incitation" even though he was in Police custody at the time. He was detained in Ba Sao camp under extremely harsh conditions. Thich Tri Tuu was released from Ba Sao on 5 March 1997 after completing his sentence, but security police took him directly from prison to the Tay Thien pagoda in Hue where he is now under house arrest. He is not allowed to communicate with the outside, and is forbidden to resume his religious functions at Linh Mu pagoda where he has lived since he was five years old. He is reportedly in poor health as a result of frequent hunger strikes;

(e) Thich Khong Tanh (Phan Ngoc An), Superior Monk of Lien Tri pagoda in Thu Duc, and Thich Nhat Ban (Ho Buu Hoa), each of whom spent 10 years in re-education camp for protesting against the State's policy of conscripting Buddhist monks into the army. They were again arrested in 1994 for taking part in the UBCV relief mission and sentenced to four to five years' imprisonment in Ho Chi Minh City on 15 August 1995 on charges of "undermining religious solidarity" and "taking advantage of democratic freedoms to violate the interests of the State". Thich Khong Tanh and Thich Nhat Ban are now serving forced labour in Z30 A camp, Dong Nai;

(f) Thich Hai Tang (Nguyen Dinh Hoa) who was arrested on 6 June 1993 and sentenced to four years in prison in connection with the 24 May 1993 Buddhist demonstration in Hue. He had been previously arrested and detained for 24 hours for "possession of anti-Socialist propaganda", i.e. a Vietnamese translation of the Universal Declaration of Human Rights. Transferred in August 1993 to the notorious B14 prison, he was detained for over nine months in an underground solitary detention cell. Thich Hai Tang completed his

sentence on 5 December 1996, but was forbidden to return home to Linh Mu pagoda. He is now under house arrest in Quang Tri, and is forbidden to exercise his religious activities;

(g) Thich Hai Thinh (Le Phu Thinh) and Thich Hai Chanh (Nguyen Chon Tam) who received three-year prison sentences on charges of "disturbing public order" for their peaceful participation in the demonstration of 40,000 Buddhists. After their release, the monks were again arrested by security police on 22 November 1996 during a security sweep on Linh Mu pagoda. In 1996, the authorities declared the pagoda to be a "national heritage site", and have used this as a pretext to place it under government control and expel all UBCV monks. Thich Hai Thinh and Thich Hai Chanh are now under house arrest in their native villages;

(h) Thich Hanh Duc (Vo Hanh Duc), Superior Monk of Son Linh pagoda, Vung Tau-Ba Ria province who was harassed, expelled manu militari from his pagoda, arrested and subsequently condemned to three years in prison on 5 January 1994 on charges of "obstruction" because of his public support of the UBCV and its Patriarch Thich Huyen Quang. Detained in K1 Gia Trung prison, Pleiku, Thich Hanh Duc was shackled, detained in solitary confinement and deprived of communications. Released in July 1996 after completing his sentence, Thich Hanh Duc found that his pagoda and all its belongings had been confiscated by the authorities. He is now forced to live as an illegal citizen;

(i) Thich Thien Minh (Huynh Van Ba) who is serving a double life-sentence at Z30 A camp. He was convicted, at unfair closed trials, on charges of "attempting to overthrow the people's government" (1979) and attempted escape (1986). Thich Thien Minh is believed to be detained solely on account of his membership in the UBCV;

(j) Thich Hue Dang (Nguyen Ngoc Dat), who was sentenced to 20 years in prison on 28 May 1992 for writing pamphlets on Buddhism and democratic reform which allegedly sought to "arouse the masses to oppose the [Communist] Party". No defence lawyer was present at his trial.

3. These systematic violations of the right to religious freedom, which is a non-derogable right, are particularly disturbing in view of the Vietnamese Government's uncooperative attitude and lack of compliance with relevant United Nations mechanisms. In his report to the fifty-third session of the United Nations Commission on Human Rights (E/CN.4/1997/91), the Special Rapporteur on religious intolerance, Mr. Abdelfattah Amor, regretted that Viet Nam had not replied to any of his submissions, nor given a definitive response to his request to make an in situ visit, despite the fact that violations of the right to life, physical integrity and health of persons (clergy and believers), as well as cases of ill-treatment, arrests and detention in Viet Nam, had been identified in his report.

4. This attitude is all the more serious in view of recent statements made by Vietnamese leaders during the visit of United States Secretary of State Madeleine Albright to Viet Nam in June 1997, to the effect that human rights in Viet Nam do not have the same value as in the United States of America. FIDH and the Vietnam Committee wish to stress that Viet Nam has signed and ratified the International Covenant on Civil and Political Rights, thus formally recognizing the universal value of rights enshrined in the Covenant and the Universal Declaration on Human Rights and reaffirmed in the 1993 Vienna Declaration. Viet Nam's derogation from universally recognized human rights is a serious violation of its binding obligation to the international community.



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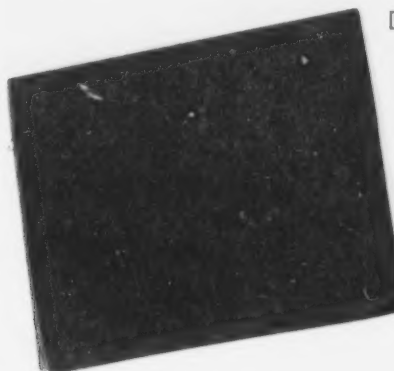
COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 4 (c)

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS:
THE QUESTION OF TRANSNATIONAL CORPORATIONS

Written statement submitted by the Worldview International Foundation,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which
is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[7 August 1997]



International trade and human rights

1. The relationship between international trade and human rights, and the role of transnational corporations in the promotion, or abuse, of human rights, have not been well studied. The relationship can be obvious, as when a corporation participates as a partner with a Government in a development project that gives rise to human rights violations. More often, the relationship is more subtle and the responsibilities of the corporation and of the State out of which it operates have not been thought out. We would therefore like to bring to the Sub-Commission's attention, through case studies involving Tibet and Myanmar some of the issues that deserve the Sub-Commission's attention.
2. The Government of China's policy and practice of population transfer into Tibet, in aid of its efforts to develop Tibet economically and exploit its resources, has been well documented before the Sub-Commission and the Commission. In aid of its exploitation of Tibet, the Government of China has received the assistance of many transnational corporations.
3. One of the more blunt ways in which transnational corporations have participated in and fostered human rights abuses is in the exploitation of natural resources. Transnational corporations have entered into agreements with the Government of China to engage in mining, including open-pit mining on a vast scale. The mining itself violates the Tibetans' rights to self-determination (to freely determine their economic, social and cultural development and to freely dispose of their natural wealth and resources) and to religious and cultural freedom (because Tibetan culture abjures wholesale destructive mining). Moreover, none of the mining benefits the Tibetans, as the resources are routinely transferred out of Tibet. These human rights violations are inherent in the mining operations, regardless of the precise manner in which they are carried on.
4. Another example of a violation of the Tibetans' right to self-determination, to religious and cultural freedom and to a sustained environment is the Yamdrok Tso hydroelectric project. This project was started over the strong objections of the Tibetan people and is now near completion. It threatens the environment surrounding and desecrates a lake considered sacred by the Tibetan people. Still, that project was not and could not have been built without substantial participation by transnational corporations which supplied equipment and expertise. In addition, the primary purpose of the project is to supply additional electric power to the Lhasa area, which already has a majority Chinese population, in order to support the transfer of more Chinese into that region.
5. In addition, the jobs that have been generated by large development projects, supported by transnational corporations, have largely benefited the transplanted Chinese, not the Tibetans. There is ample evidence of discrimination in jobs, with the Chinese obtaining most of the skilled and managerial positions and the Tibetans getting, at best, unskilled positions.
6. There is evidence, furthermore, that on large infrastructure projects, Tibetans have been forced to "contribute" labour as part of a community contribution. Also, prisoners in "re-education through labour" and "reform

through labour" camps, many of whom are prisoners of conscience, have been pressed into work on large-scale logging operations in eastern Tibet. The use of such forced labour violates the International Covenant on Civil and Political Rights and the two International Labour Organization Forced Labour Conventions. To the extent transnational corporations are partners in such development or logging operations, they are aiding and abetting gross human rights violations.

7. The use of forced labour in violation of international law has been documented in Myanmar as well, involving projects carried on in partnerships between the Government of Burma and transnational corporations. One example is the recent United States lawsuit brought against the Unocal corporation, based on its participation in an oil pipeline project in Myanmar during which government officials and soldiers carried out forced labour and committed rape and torture.

8. Certainly, the managers and shareholders of such corporations have a moral responsibility to prevent and eliminate human rights abuses arising during the execution of projects in which they are participating. They may also have legal responsibility under some States' laws. Unocal, for example, under the United States Alien Tort Claims Act, has a direct legal responsibility to avoid and prevent human rights abuses. Such potential liabilities under individual States' laws, however, are limited and rare. In addition, international human rights treaties and conventions generally do not, by their nature, apply to private firms or persons. States are the contracting parties and thus have the ultimate legal responsibility to honour their treaty obligations.

9. It is clear that a State has the legal responsibility to prevent human rights violations and to ensure compliance with its treaty obligations within its own territory. The Sub-Commission, and the international community generally, can and should hold the Government of China responsible for human rights violations within Tibet and the present Government of Myanmar for human rights abuses in that country. We remain concerned, however, about the ability of transnational corporations to operate with impunity in partnership with States, such as China and Myanmar which routinely violate, and permit the violation of human rights within their territories. The ability of corporations to so operate is aided by the fact that the Governments of China and Myanmar have so far not ratified the two International Covenants and both continue to violate treaties to which they are a party. Corporations who knowingly contribute to human rights violations should not be allowed to absolve themselves of responsibility by claiming that any human rights violations are the responsibility of the State in which they occur, or are solely a matter for enforcement by States.

10. We contend that States do have an obligation to ensure that firms operating from their territory and under their protection are not contributing to the violation of human rights in other States' territories. The Charter of the United Nations requires all Members to "take joint and several action" to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion". This obligation is repeated in the two International Covenants and in the Universal Declaration of Human Rights. We therefore submit that a

State, to be consistent with that obligation, cannot permit a corporation constituted and operating under the protection of its laws (and, with respect to international projects, often with the direct or indirect financial and/or political support of that State) to engage in practices in another State that violate fundamental human rights.

11. In light of the evidence of participation by transnational corporations in human rights violations in places such as Tibet and Myanmar, we call upon the Sub-Commission to examine further the ways in which transnational corporations may participate directly and indirectly in human rights violations through development projects carried out in cooperation with the State. Further, the Sub-Commission should affirm that States have the responsibility, as part of their obligation to promote fundamental human rights, to monitor firms and corporations operating from their territories and under their protection in order to prevent human rights violations in any part of the world.



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of Minorities
Forty-ninth session
Item 5 of the agenda

THE IMPLEMENTATION OF THE HUMAN RIGHTS OF WOMEN

Written statement submitted by the Worldview International Foundation, a
non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[7 August 1997]

GE.97-13281 (E)



1. This agenda item recognizes that traditional health-care practices often burden women and children most severely. This is true not only with respect to health care generally, but also with respect to reproductive and childbirth practices specifically. We wish to bring to the Sub-Commission's attention evidence of Chinese health-care practices in two areas that have a serious effect on women and children in Tibet: (i) coercive reproductive medical practices arising from "family planning" policies, and (ii) a woefully inadequate health-care system imported into Tibet that is seriously damaging the health of all Tibetans, but that of Tibetan children in particular.

China's coercive reproductive medical practices limit Tibet's population, although there is no overpopulation in Tibet

2. Discussion of the imposition of "family planning" measures must begin with the proposition that Tibet has never had a population problem.

3. Tibet spans more than 2.5 million square kilometres, and is roughly the size of western Europe; with a population of fewer than 6 million. Tibet has fewer people than Los Angeles County. In the Tibet Autonomous Region (which covers approximately 40 per cent of what is traditionally known as Tibet), the population density is merely 1.6 persons per square kilometre, one hundredth that of China. Although Tibet has never had a population problem, China effectively controls the timing of childbirth and limits the number of children allowed to a Tibetan family. This population control regime has been China's official means of restricting the reproductive rights of Tibetan women since 1992, and its unofficial policy since the early 1980s.

4. This "family planning" policy will certainly lead to a sharp decline in the Tibetan population, as the number of children allowed a Tibetan family will not be enough to maintain the population. Through the reduction of the size of the already small Tibetan population and the continuing transfer of Chinese settlers into Tibet, the likelihood increases dramatically that the Tibetan people, culture and religion will vanish within the next century.

China denies Tibetan women their reproductive freedom

5. China imposes fines for a child born "out of plan". Because the financial penalty often exceeds a family's yearly income, Tibetan women are often coerced to submit to abortions and sterilization operations. These women are further coerced by Chinese threats to arrest and imprison their husbands if they do not submit to abortion and sterilization procedures. Tibetan children born "out of plan" are denied the papers necessary to attend day-care centres and school and to receive medical care. Because these children's names are not registered, the family will not receive a ration card for the additional family member.

6. Recent reports received from refugees indicate that a sterilization and forced abortion campaign has been under way since last fall in the Chushur district under Lhasa city: 308 women were sterilized in only one month between September and October 1996. One woman reportedly died and another is seriously ill as a result of forced sterilizations.

7. Furthermore, according to confirmed reports, Tibetan women are subjected to abortions and sterilization procedures without being told of the nature of the operations. Women are encouraged to go to hospitals for therapeutic reasons unrelated to their pregnancy, and are chemically induced to abort. Abortions often are followed by sterilization operations, which are conducted without consent. Also, doctors reportedly have, precisely at the moment of birth, injected babies' heads with lethal ethanol, thereby causing them to be born dead.

8. Among the cases of forced abortions and sterilizations are those that have occurred in Gonghe county, Qinghai province, where China has conducted "blitz" campaigns whereby virtually every girl and woman of child-bearing age is sterilized and others are forced to abort their fetuses. According to one eyewitness report,

The villagers were informed that all women had to report to the tent (in which the mobile birth control teams operated among villages) for abortions and sterilizations or there would be grave consequences. Women who went peacefully to the tents and did not resist received medical care. The women who refused to go were taken by force, operated on, and given no medical care. Women nine months pregnant had their babies taken out. (Blake Kerr, "Tibetans under the knife", in Anguish in Tibet, 148 ff., Petra Kelly and others, eds., 1991)

China's coercive reproductive medical practices in Tibet violate international human rights laws

9. China's population control programme in Tibet constitutes a violation of international human rights law, including treaties to which China is a signatory. For example, the programme violates the United Nations Declaration of Human Rights and two treaties that China signed and ratified, namely the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

10. China might also be in violation of another treaty to which it is a signatory, namely the Convention on the Prevention and Punishment of the Crime of Genocide. The Convention's proscription of genocide applies to the imposition of measures that are intended to prevent births to a national, ethnic, racial or religious group, if these measures are imposed "with the intent to destroy such a group in whole or in part".

11. The practices of China at the very least prima facie supply an example of intent to commit genocide against the people of Tibet. China's denial of Tibetan women's right to reproductive freedom betrays a systematic attempt to reduce the Tibetan population, suppress its culture and render the Tibetans a minority in their own country.

There is little adequate health care in Tibet

12. Quite apart from the coercive medical procedures used to enforce family planning policies, access to health-care resources generally in Tibet is woefully inadequate. First, despite the existence of many hospitals and

clinics (six hospitals in Lhasa alone), there are few persons with senior clinical experience staffing those facilities and there is a serious shortage of equipment and drug supplies with which to treat patients. Second, even though health care is supposed to be free in Tibet, that is not the case in practice. While this applies to both Chinese and Tibetans within Tibet, this policy is a significant barrier to health-care access for Tibetans, few of whom have the income with which to pay for health care. As a result, Tibetan children are dying at excessive rates from diseases such as tuberculosis, pneumonia and diarrhoea, which are the traditional killers of indigenous peoples in occupied countries. Adults suffer excessively from strokes, hypertension, chronic pulmonary disease, hepatitis and gastric cancer.

Population transfer and development are undermining the health of Tibetan children

13. Recent studies have shown that, while the height of children in China (excluding Tibet) has been increasing in recent decades, the height of Tibetan children is declining. This is most likely the result of chronic undernutrition, beginning with the undernutrition of pregnant women. The causes of the undernutrition are uncertain, but appear to include: Chinese regulations determining the ratio of wheat to barley planted (barley is the traditional Tibetan crop); Chinese regulations forcing Tibetans to sell food crops at controlled prices, leaving few crops with which to barter for meat (a traditional source of food) and little cash with which to buy food; and the introduction of "status food" (e.g., canned goods, candy, soft drinks) which are expensive and of poor nutritional value.

14. The International Covenant on Economic, Social and Cultural Rights, which China has promised to ratify by the end of this year, provides in article 12 that each State shall provide for adequate health care for all. Currently, China's health-care practices, in combination with its illegal population transfer policies, violate that provision.

15. We call upon the Commission to take note of the human rights violations against the Tibetan people, through China's family planning policies and through its recklessly indifferent health-care system. The indifference to provide adequate health care for the Tibetan people, in combination with the deleterious effect on the health of Tibetans of massive population transfer and disruption of traditional Tibetan economies, by itself threatens the physical survival of the Tibetan people. The coercive family planning practices imposed on Tibetan women under the circumstances of population transfer into an otherwise sparsely populated country evidences a more systemic attempt to reduce the Tibetan population. We therefore call upon the Sub-Commission to pass a resolution condemning these practices and calling for a detailed in situ study of the causes and effects of these practices in Tibet.
